

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DENNIS K. KIEREN, JR.,

Petitioner,

vs.

STATE OF NEVADA ATTORNEY
GENERAL, *et al.*,

Respondents.

3:07-cv-00341-LRH-RAM

ORDER

This habeas matter under 28 U.S.C. § 2254 comes before the Court following initial review under Rule 4 of the Rules Governing Section 2254 Cases (the “Habeas Rules”) of the amended petition (#20) filed by the Federal Public Defender. Following upon said review, a response will be directed.

IT THEREFORE IS ORDERED that, taking into account the extensive number and complexity of the claims presented, respondents shall have sixty (60) days from entry of this order within which to answer, or otherwise respond to, the amended petition, including by motion to dismiss.

IT FURTHER IS ORDERED that any procedural defenses raised by the respondents in this case shall be raised together in a single motion to dismiss, and the respondents shall not file an answer that consolidates their procedural defenses, if any, in this case with their response on the merits.

IT FURTHER IS ORDERED that, when an answer on the merits is filed as to the claim of jury charge error in Ground 5, the respondents’ answer shall address: (a) whether the Nevada Supreme Court’s rejection of the petitioner’s claim of constitutional error was contrary to clearly established

1 federal law as determined by the United States Supreme Court, in light of the Ninth Circuit's holding
2 in *Polk v. Sandoval*, 503 F.3d 903 (9th Cir. 2007); *see also Chambers v. McDaniel*, --- F.3d ----, 2008
3 WL 5143011(9th Cir., Dec. 9, 2008); and (b) whether any such error was harmless error under the
4 standards referenced in *Polk*, 503 F.3d at 911-13, and with specific citation to and discussion of the
5 relevant state court trial and other record evidence bearing on the harmless error issue.

6 IT FURTHER IS ORDERED that, in any answer filed, as to all claims, the respondents shall
7 specifically cite to and address the applicable state court written decision and state court record
8 materials, if any, regarding each claim within the argument as to that claim

9 IT FURTHER IS ORDERED that any additional exhibits filed by the respondents shall be filed
10 with a separate index of exhibits identifying the exhibits by number or letter. The CM/ECF attachments
11 that are filed further shall be identified by the number or numbers (or letter or letters) of the exhibits
12 in the attachment. Cf. ## 21-24. The purpose of this provision is so that the Court, the parties, and any
13 reviewing court thereafter will be able to quickly determine from the face of the electronic docket sheet
14 which exhibits are filed in which attachments.

15 IT FURTHER IS ORDERED that petitioner shall have thirty (30) days from service of the
16 answer, motion to dismiss, or other response to file a reply or opposition.

17 DATED this 14th day of January, 2009.

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LARRY R. HICKS
UNITED STATES DISTRICT JUDGE